

## **CHAPTER 71-04-06 PROVIDER RESPONSIBILITIES**

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**71-04-06-01. Application.** Those firms desiring to offer investment services for the deferred compensation plan shall first notify the retirement board, in writing, of the firms' willingness to become a provider.

**History:** Effective April 1, 1989.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

**71-04-06-02. Administrative agreement.** Firms expressing a desire to become a provider of investment services under the deferred compensation plan must agree to all provisions found in and sign the retirement boards' administrative agreement. The administrative agreement sets forth the responsibilities of the provider to the plan, the retirement board, and the employee and stipulates that the provider abide by the plan and rules and regulations adopted by the retirement board for the administration of the plan.

**History:** Effective April 1, 1989.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

**71-04-06-03. Sales representatives.** All sales representatives of the provider approved by the retirement board to solicit employees must be fully trained to explain the various investment options available through the provider, be able to explain what the deferred compensation program is as found under section 457 of the Internal Revenue Code, and be licensed with the North Dakota state securities commissioner for the sale of registered or unregistered securities or the

North Dakota state insurance commissioner for the sale of insurance contracts or policies, or both.

**History:** Effective April 1, 1989.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

**71-04-06-04. Listing of investment options.** Each provider shall provide a listing of the investment options offered to employees. The listing must be attached to the administrative agreement.

**History:** Effective April 1, 1989.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

**71-04-06-05. Employee statements.** Participants in the provider's investment options shall receive, at least quarterly, account statements, sent to their home address, detailing each participant's activity and account balance.

**History:** Effective April 1, 1989; amended effective July 1, 1994.

**General Authority:** NDCC 28-32-02, 54-52.2-03.2

**Law Implemented:** NDCC 54-52.2-03, 54-52.2-03.2

**71-04-06-06. Retirement board report.** The provider shall deliver quarterly reports, in an approved electronic format, to the retirement board detailing the activity of each participant's account. The quarterly report must be delivered within thirty days of the end of each calendar quarter and must include an alphabetical listing of the participants, social security numbers of the participants, the provider's contract number for the participants (if any), type of account for each participant, beginning account balance forwarded from the previous reporting period, contributions made by the participants for the current reporting period, transfers and rollovers from other eligible plans during the reporting period, investment earnings or losses added to the account (if any for the reporting period), any withdrawals made during the reporting period, administrative charges assessed against the account during the reporting period, transfers and direct rollovers to other eligible plans during the reporting period, and the account balance at the end of the reporting period. The report columns must be totaled. The quarterly report must include active, inactive, and accounts in payout status, with the exception of accounts which have been annuitized, and be for all payroll divisions for the plan.

**History:** Effective April 1, 1989; amended effective November 1, 1990; July 1, 1994; May 1, 2004; July 1, 2006.

**General Authority:** NDCC 28-32-02, 54-52.2-03.2

**Law Implemented:** NDCC 54-52.2-03, 54-52.2-03.2

**71-04-06-07. Account transfer.** The provider shall allow any participant who so requests, the ability to transfer the participant's account to another provider on a tax-free basis. The request to the provider must be made in writing by the

retirement board or its designated representative. The transfer must be made within thirty days of the provider's receipt of the transfer request.

**History:** Effective April 1, 1989; amended effective July 1, 1994.

**General Authority:** NDCC 28-32-02, 54-52.2-03.2

**Law Implemented:** NDCC 54-52.2-03

**71-04-06-08. Benefit requests.** The provider shall honor all requests for benefit or refund payments made upon notification of the employee's separation from service by the retirement board.

**History:** Effective April 1, 1989; amended effective May 1, 2004.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

**71-04-06-09. Benefit payments.** The provider shall make benefit payments to the participant at the participant's designated mailing address, or, if requested, make direct deposits of the benefits at the participant's bank, savings and loan, or credit union.

**History:** Effective April 1, 1989.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

**71-04-06-10. Income tax withholding.** The provider shall allow for the withholding of federal and state income taxes from the benefit payments and file the required reports of the withholdings with the appropriate federal and state agencies.

**History:** Effective April 1, 1989; amended effective July 1, 1998; April 1, 2002.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

**71-04-06-11. Provider reporting failure - Penalty.** Should the provider fail to deliver the required report within a thirty-day period beyond the end of the reporting period, notice must be given by certified mail of the provider's failure to comply. The provider shall then have thirty days from the date of the certified letter to comply with the reporting requirement. If the provider fails to deliver the required report within the thirty-day period, the provider is in violation of the administrative agreement and shall lose active provider status as described under subsection 1 of section 71-04-04-09. If the provider has not filed the report within ninety days after the end of the reporting period, the provider shall lose provider status as described under subsection 2 of section 71-04-04-09. Loss of provider status results in all current contributions of active participants being suspended effective in the next payroll cycle. The retirement board will notify all participants of the company's failure to deliver the required reports. Current participants will be required to either select a new provider for future contributions, or have their

account go into a dormant status with the company losing provider status. The retirement board will then terminate the agreement with the provider.

**History:** Effective April 1, 1989; amended effective November 1, 1990; July 1, 1994; May 1, 2004.

**General Authority:** NDCC 28-32-02, 54-52.2-03.2

**Law Implemented:** NDCC 54-52.2-03, 54-52.2-03.2

**71-04-06-12. Provider suspension - Employee account transfers.**

Should the provider be in violation of the administrative agreement, employees shall have the option of transferring their individual accounts to another qualified provider. The employee shall also have the option of leaving the account with the provider, in a dormant status, to be dealt with by the employee upon separation from service.

**History:** Effective April 1, 1989; amended effective July 1, 1994.

**General Authority:** NDCC 28-32-02, 54-52.2-03.2

**Law Implemented:** NDCC 54-52.2-03, 54-52.2-03.2

**71-04-06-13. Dormant accounts.** The employee may elect to leave the employee's account with the provider after separation from service.

**History:** Effective April 1, 1989; amended effective July 1, 1994.

**General Authority:** NDCC 28-32-02, 54-52.2-03.2

**Law Implemented:** NDCC 54-52.2-03

**71-04-06-14. Product disclosure.** The provider shall report annually in a form and manner specified by the board such information the board may require related to the provider's investment products. Should the provider fail to deliver the required report within a sixty-day period following the date of request, the provider is in violation of the administrative agreement and subject to the action set forth in section 71-04-04-09.

**History:** Effective July 1, 1994.

**General Authority:** NDCC 54-52.2-03.2

**Law Implemented:** NDCC 54-52.2-03.2